

## **Chapter 85.**

### **Accident and Health Insurance.**

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#### **23-85-101. Franchise plan - Definition.**

- (a) Accident and health insurance on a franchise plan is declared to be that form of

accident and health insurance issued to:

- (1) Five (5) or more employees of any corporation, copartnership, or individual employer or any governmental corporation, agency, or department thereof; or
- (2) Ten (10) or more members, employees, or employees of members of any trade or professional association or of a labor union or of any other association having had an active existence for at least two (2) years where:
  - (A) The association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance; and
  - (B) Such persons, with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by the persons under an arrangement whereby the premiums on the policies may be paid to the insurer periodically by:
    - (i) The employer, with or without payroll deductions;
    - (ii) The association for its members; or
    - (iii) Some designated person acting on behalf of the employer or association or union.
- (b) The term "employees" as used in this section may be deemed to include officers, managers, and employees and retired employees of the employer and the individual proprietor or partners if the employer is an individual proprietor or partnership.

#### **23-85-102. Scope.**

This chapter governs accident and health insurance policies issued to individuals and members of their families. Nothing in §§ 23-85-101 - 23-85-134, 23-85-136, and 23-85-137 shall apply to or affect:

- (1) Any policy of liability or workers' compensation insurance with or without supplementary expense coverage therein;
- (2) Any group or blanket policy;
- (3) Life insurance, endowment, or annuity contracts, or contracts supplemental thereto, which contain only such provisions relating to accident and health insurance as:
  - (A) Provide additional benefits in case of death, dismemberment, or loss of sight by accident; or
  - (B) Operate to safeguard the contracts against lapse or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant becomes totally and permanently disabled, as defined by the contract or supplemental contract; and
- (4) Reinsurance.

#### **23-85-103. Third party ownership.**

The word "insured" as used in §§ 23-85-101 - 23-85-131 shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits, and rights provided therein.

#### **23-85-104. Form of policy.**

No policy of accident and health insurance shall be delivered or issued for delivery to any person in this state, unless it otherwise complies with this code and complies with the following:

- (1) The entire money and other considerations for the policy shall be expressed in the policy;
- (2) The time when the insurance takes effect and terminates shall be expressed in the policy;
- (3) It shall purport to insure only one (1) person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two (2) or more eligible members of that family, including husband, wife, or any other person dependent upon the policyholder;
- (4)(A) The style, arrangement, and overall appearance of the policy shall give no undue prominence to any portion of the text.  
(B) In printed forms, every portion of the text of the policy and of any endorsements or attached papers shall be plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than 10-point type with a lower case unspaced alphabet length not less than 120 points.  
(C) The appearance of text in forms developed for electronic transmission shall comply with rules and regulations developed by the Insurance Commissioner.  
(D) The text shall include all printed matter, except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions;
- (5) The exceptions and reductions of indemnity shall be set forth in the policy and, other than those contained in §§ 23-85-106 - 23-85-126 and 23-85-128, shall be printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as "Exceptions", or "Exceptions and Reductions", except that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of the exception or reduction shall be included with the benefit provision to which it applies;
- (6) Each form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page; and
- (7) The policy shall contain no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy, unless the portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risk or a short-rate table filed with the commissioner.

#### **23-85-105. Required provisions.**

- (a)(1) Except as provided in subsection (b) of this section, each accident and health policy delivered or issued for delivery to any person in this state shall contain the provisions specified in §§ 23-85-106 - 23-85-117 in the words in which the

provisions appear.

- (2) However, the insurer, at its option, may substitute for one (1) or more of the provisions, corresponding provisions of different wording approved by the Insurance Commissioner which are, in each instance, not less favorable in any respect to the insured or the beneficiary. Each provision shall be preceded individually by the applicable caption shown, or at the option of the insurer, by the appropriate individual or group captions or subcaptions as the commissioner may approve.
  - (3) For the purpose of protecting the public against misrepresentations and misleading representations regarding the benefits provided in any policy of accident and health insurance, the commissioner is directed to prescribe minimum benefit provisions which shall be included in and made a part of every policy of accident and health insurance sold or offered for sale in this state.
- (b) If any provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from the policy any inapplicable provision or part of a provision and shall modify any inconsistent provision or part of a provision in such manner as to make the provisions, as contained in the policy, consistent with the coverage provided by the policy.

**23-85-106. Entire contract and changes provision.**

There shall be a provision as follows:

"Entire Contract; Changes: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions."

**23-85-107. Time limit on certain defenses provision.**

- (a) There shall be a provision as follows:

"Time Limit on Certain Defenses: (1) After three (3) years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability as defined in the policy commencing after the expiration of such three-year period.

"(2) No claim for loss incurred or disability, as defined in the policy, commencing after three (3) years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy."

- (b) Provision number one (1) shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during the initial three-year period, nor

to limit the application of §§ 23-85-119 - 23-85-121 in the event of misstatement with respect to age or occupation or other insurance.

- (c) A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age fifty (50) years or, in the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue, may contain in lieu of the foregoing the following provision, from which the clause in parentheses may be omitted at the insurer's option, under the caption "Incontestable":

"After this policy has been in force for a period of three (3) years during the lifetime of the insured, excluding any period during which the insured is disabled, it shall become incontestable as to the statements contained in the application."

**23-85-108. Grace period provision.**

- (a) There shall be a provision as follows:

"Grace Period: A grace period of . . . . . (insert a number not less than seven (7) for weekly premium policies, ten (10) for monthly premium policies and thirty-one (31) for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

- (b) A policy in which the insurer reserves the right to refuse renewal shall have, at the beginning of the above provision:

"Unless, not less than thirty (30) days prior to the premium due date, the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted."

**23-85-109. Reinstatement provision.**

- (a) There shall be a provision as follows:

"Reinstatement: If any renewal premium is not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten (10) days after such date. In all other respects, the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the

reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty (60) days prior to the date of reinstatement."

- (b) The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums:
  - (1) Until at least age fifty (50) years; or
  - (2) In the case of a policy issued after age forty-four (44), for at least five (5) years from its date of issue.

**23-85-110. Notice of claim provision.**

- (a) There shall be a provision as follows:

"Notice of Claim: Written notice of claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at . . . . (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer."

- (b) In a policy providing a loss-of-time benefit which may be payable for at least two (2) years, an insurer may at its option insert the following between the first and second sentences of the above provision:

"Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two (2) years, he shall, at least once in every six (6) months after having given notice of the claim, give to the insurer notice of continuance of the disability, except in the event of legal incapacity. The period of six (6) months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six (6) months preceding the date on which such notice is actually given."

**23-85-111. Claim forms provision.**

- There shall be a provision as follows:

"Claim Forms: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen (15) days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character, and the extent of the loss for which claim is made."

### **23-85-112. Proofs of loss provision.**

There shall be a provision as follows:

"Proofs of Loss: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within ninety (90) days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety (90) days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one (1) year from the time proof is otherwise required."

### **23-85-113. Time of payment of claims provision.**

There shall be a provision as follows:

"Time of Payment of Claims: Indemnities payable under this policy for any loss, other than loss for which this policy provides any periodic payment, will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid . . . . (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof."

### **23-85-114. Payment of claims provision.**

(a) There shall be a provision as follows:

"Payment of Claims: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured."

(b) The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer:

(1) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$. . . . . (insert an amount which shall not exceed one thousand dollars (\$1,000)), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of payment."

(2) "Subject to any written direction of the insured in the application or otherwise, all

or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person."

**23-85-115. Physical examination and autopsy provision.**

There shall be a provision as follows:

"Physical Examinations and Autopsy: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law."

**23-85-116. Legal actions provision.**

There shall be a provision as follows:

"Legal Actions: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty (60) days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three (3) years after the time written proof of loss is required to be furnished."

**23-85-117. Change of beneficiary provision.**

(a) There shall be a provision as follows:

"Change of Beneficiary: Unless the insured makes an irrevocable designation of beneficiary, the right to change a beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy."

(b) The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

**23-85-118. Optional policy provisions.**

- (a) Except as provided in § 23-85-105(b), no policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth in this section and §§ 23-85-119 - 23-85-126, unless the provisions are in the words in which the provisions appear in the applicable section, except that the insurer may, at its option, use in lieu of the provision a corresponding provision of different wording approved by the Insurance Commissioner which is not less favorable in any respect to the insured or the beneficiary.
- (b) The provision contained in the policy shall be preceded individually by the appropriate caption or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.



### **23-85-119. Optional change of occupation provision.**

There may be a provision as follows:

"Change of Occupation: If the insured is injured or contracts sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer, prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation, with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation."

### **23-85-120. Optional misstatement of age provision.**

There may be a provision as follows:

"Misstatement of Age: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age."

### **23-85-121. Optional other insurance in this insurer provision.**

(a) There may be a provision as follows:

"Other Insurance in This Insurer: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured is in force concurrently herewith, making the aggregate indemnity for . . . . . (insert type of coverage or coverages) in excess of \$. . . . . (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate."

(b) In lieu of the provision in subsection (a) of this section, there may be a provision as follows:

"Insurance effective at any one (1) time on the insured under a like policy or policies in this insurer is limited to the one (1) such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies."

### **23-85-122. Optional relation of earnings to insurance provision.**

(a) There may be a provision as follows:

"Relation of Earnings to Insurance: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two (2) years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two (2) years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars (\$200) or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time."

- (b)(1) The policy provision in subsection (a) of this section may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age fifty (50), or in the case of a policy issued after age forty-four (44) years, for at least five (5) years from its date of issue.
- (2) The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the Insurance Commissioner, which shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage, the inclusion of which may be approved by the commissioner or any combination of such coverages.
- (3) In the absence of the definition, this term shall not include any coverage provided for the insured pursuant to any compulsory benefit statute, including any workers' compensation or employer's liability statute, or benefits provided by union welfare plans or by employer or employee benefit organizations.

### **23-85-123. Optional unpaid premiums provision.**

There may be a provision as follows:

"Unpaid Premiums: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom."

### **23-85-124. Optional conformity with state statutes provision.**

There may be a provision as follows:

"Conformity with State Statutes: Any provision of this policy which, on its effective

date, is in conflict with the statutes of the state, District of Columbia, or territory in which the insured resides on such date is amended to conform to the minimum requirements of such statutes."

**23-85-125. Optional illegal occupation provision.**

There may be a provision as follows:

"Illegal Occupation: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation."

**23-85-126. Optional intoxicants and controlled substances provision.**

There may be a provision as follows:

"Intoxicants and Controlled Substances: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any controlled substance unless administered on the advice of a physician."

**23-85-127. Order of certain provisions.**

The provisions which are the subject of §§ 23-85-106 - 23-85-126, or any corresponding provisions which are used in lieu thereof in accordance with the sections, shall be printed in the consecutive order of the provisions in such sections. At the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided that the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered, or issued.

**23-85-128. Refusal to renew policy.**

- (a) Accident and health insurance policies in which the insurer reserves the right to refuse renewal on an individual basis shall provide in substance in a provision thereof, in an endorsement thereon, or rider attached thereto that, subject to the right to terminate the policy for nonpayment of premium when due, the right to refuse renewal may not be exercised so as to take effect before the renewal date occurring on or after the next policy anniversary, or in the case of lapse and reinstatement, at the renewal date occurring on or after the next anniversary of the last reinstatement. The provision, endorsement, or rider shall also state that any refusal of renewal shall be without prejudice to any claim originating while the policy is in force.
- (b) The reference to lapse and reinstatement in subsection (a) of this section may be omitted at the insurer's option.

**23-85-129. Requirements of other jurisdictions.**

- (a) Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this chapter and which is prescribed or required by the law of the state or country under which the insurer is organized.

- (b) Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of the other state or country.

**23-85-130. Conforming to statute.**

- (a) No policy provision which is not subject to §§ 23-85-101 - 23-85-131 shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to §§ 23-85-101 - 23-85-131.
- (b) A policy delivered or issued for delivery to any person in this state in violation of §§ 23-85-101 - 23-85-131 shall be held valid but shall be construed as provided in §§ 23-85-101 - 23-85-131. When any provision in a policy subject to §§ 23-85-101 - 23-85-131 is in conflict with any provision of §§ 23-85-101 - 23-85-131, the rights, duties, and obligations of the insurer, the insured, and the beneficiary shall be governed by the provisions of §§ 23-85-101 - 23-85-131.

**23-85-131. Age limit - Exception.**

- (a) If any policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective and if the date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after the date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective or would have ceased prior to the acceptance of the premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.
- (b)(1) In any accident and health insurance contract that contains a provision whereby coverage of a dependent in a family group terminates at a specified age, there shall also be a provision that coverage of an unmarried dependent who is incapable of sustaining employment by reason of mental retardation or physical disability, who became so incapacitated prior to the attainment of the age of nineteen (19), and who is chiefly dependent upon the policyholder for support and maintenance shall not terminate, but coverage shall continue so long as the contract remains in force and so long as the dependent remains in such condition.
- (2) At the request and expense of the insurer, proof of the incapacity or dependency must be furnished to the insurer by the policyholder, except in no event shall this requirement preclude eligible dependents under this section and §§ 23-85-104, 23-86-102, and 23-86-108, regardless of age.
- (3) If the incapacity or dependency is thereafter removed or terminated, the policyholder shall so notify the insurer.

**23-85-132. Reduction of benefits due to other insurance contracts prohibited.**

- (a) No contract of individual accident and health insurance or health coverage sold, delivered, or issued for delivery or offered for sale in this state by an insurer, hospital

and medical service corporation, or health maintenance organization, directly or indirectly providing indemnity services, health care services, or cash to an individual as a result of hospitalization, medical or surgical treatment, or dental care shall contain a provision reducing the benefit which would otherwise be payable to the individual in the absence of other insurance or health coverage if the reduction of benefits is due solely to the existence of one (1) or more additional contracts providing benefits to that individual, unless the reduction complies with coordination of benefit rules and regulations adopted by the Insurance Commissioner.

- (b) No contract of individual accident and health insurance sold, delivered, or issued for delivery or offered for sale in this state providing disability income coverage shall contain any provision for the denial or reduction of benefits because of the existence of other insurance, except as provided in § 23-85-122 or any coverages approved by the commissioner pursuant thereto and except that the benefits may be reduced to offset disability income benefits payable under the federal Social Security Act.
- (c) The commissioner may issue rules and regulations to implement this section, including, but not limited to, regulations as to the amount of reductions and the nature and timing of proofs of eligibility for federal Social Security benefits.

**23-85-133. Coverage of outpatient services required - Exception - Definitions.**

- (a)(1) No policy or contract of accident and health insurance, including contracts issued by hospital and medical service corporations, which provides coverage for any of the following services when delivered on an inpatient basis, shall be sold, delivered, or issued for delivery or offered for sale in this state, unless the identical coverage for the following services is provided when delivered on an outpatient basis:
  - (A) Laboratory and pathological tests;
  - (B) X rays;
  - (C) Chemotherapy;
  - (D) Radiation treatment; and
  - (E) Renal dialysis.
- (2) However, the coverage required by subsection (a) of this section shall not be required where any policyholder or contract holder rejects coverage in writing.
- (b) As used in this section:
  - (1) "Chemotherapy" means the administration, other than orally, of antineoplastic agents which are an integral part of cancer therapy;
  - (2) "Laboratory and pathological tests" means those services, including machine tests, ordered by the attending physician when necessary to and rendered in conjunction with the medical or surgical diagnosis or treatment of an illness or injury;
  - (3) "Radiation treatment" means treatment, when ordered by the attending physician, of cancer by X ray, radium, or radioisotopes;
  - (4) "Renal dialysis" means treatment, when ordered by the attending physician, of chronic renal disease by a process by which waste products are removed from the body by diffusion from one (1) fluid compartment to another across a semipermeable membrane and shall include hemodialysis and peritoneal dialysis;

and

- (5) "X rays" means diagnostic X-ray examinations, including fluoroscopic examinations, ordered by the attending physician when such X-ray examinations are necessary to and rendered in conjunction with the medical or surgical diagnosis or treatment of an illness or injury.

**23-85-134. Refund of unearned premiums upon death of insured.**

- (a) Upon the death of an insured, the proceeds payable to the insured or his or her estate under the policy of individual accident and health insurance, delivered or issued for delivery in this state after June 17, 1981, shall include premiums paid for accident and health insurance coverage for the insured for any period beyond the end of the policy month in which the death occurred.
- (b) Unearned premiums shall be paid in lump sum on a date no later than thirty (30) days after the proof of the insured's death has been furnished to the insurer.
- (c) This section shall be applicable to all individual contracts of accident and health insurance, including individual contracts issued by hospital and medical service corporations.

**23-85-135. [Repealed.]**

**23-85-136. Standard claim form required.**

- (a) All accident and health insurers transacting business in this state shall use Form HCFA 1500 and Form UB-92/HCFA 1450, or the claim format required by the Health Insurance Portability and Accountability Act of 1996, as the standard claim forms until and unless the Insurance Commissioner prescribes otherwise.
- (b) Pursuant to the applicable provisions of the Arkansas Insurance Code, § 23-60-101 et seq., the commissioner may suspend or revoke the certificate of authority of any insurance company which refuses to use and accept the standard claim form required by this section, or the commissioner may utilize any remedy provided in § 23-66-210.

**23-85-137. In vitro fertilization coverage required.**

- (a) All accident and health insurance companies doing business in this state shall include, as a covered expense, in vitro fertilization.
- (b) The Insurance Commissioner, pursuant to the applicable provisions of the Arkansas Insurance Code, § 23-60-101 et seq., may suspend or revoke the certificate of authority of any insurance company failing to comply with the provisions of this section.
- (c) After conducting appropriate studies and public hearings, the commissioner shall establish minimum and maximum levels of coverage to be provided by the accident and health insurance companies.
- (d) Coverage required under this section shall include services performed at a medical facility, licensed or certified by the Department of Health, those performed at a facility certified by the department which conforms to the American College of Obstetricians and Gynecologists' guidelines for in vitro fertilization clinics, or those performed at a facility certified by the department which meets the American Fertility

Society minimal standards for programs of in vitro fertilization.

- (e) Continued certification shall require that the facility is achieving a reasonable success rate with both fertilization and births.
- (f) Appropriate laboratory facilities must be provided by the entity requesting certification.

**23-85-138. [Repealed.]**

**23-85-139. Written notice for premium payments made.**

- (a) No insurer issuing or renewing policies pursuant to § 23-85-101 et seq. or conversion policies issued pursuant to § 23-86-115 shall unilaterally change the premium payment mode for the policyholder or payor, unless the insurer provides written notice of the effective date of the premium payment mode change to the policyholder or payor at least sixty (60) days prior to the change.
- (b) This section shall not apply when an insurer unilaterally changes the premium payment mode solely due to a policyholder's or payor's nonpayment of premium.